

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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FRANCISCO COLON JR.,

08 CV 00182 (PAC)(GWG)

Plaintiff,

-against-

VERIFIED PETITION
FOR REMOVAL

ALBERT FRANCO,

Defendant.

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Petitioner, ALBERT FRANCO, by his attorneys the Law Offices of ZAWACKI, EVERETT & GRAY, alleges upon information and belief:

1. A civil action has been brought and is now pending in the Supreme Court of the State of New York, County of Bronx, Index No. 18786/07, wherein plaintiff, as set forth in the above caption, is the plaintiff; and wherein the petitioner herein, ALBERT FRANCO, is the named defendant.

2. The Supreme Court action is a civil action between citizens of different states, and the matter in controversy exceeds \$75,000 exclusive of interest and costs, and is one over which the United States District Court has original jurisdiction under the provisions of 28 U.S. Code § 1332, and which may be removed by petitioner pursuant to 28 U.S. Code § 1441.

3. Plaintiff is a citizen of this State, whereas defendant is a citizen of the State of New Jersey.

4. Every issue of fact and law herein is wholly between citizens of different states.

5. Petitioner hereby petitions to remove the above-captioned action to this Court under the provisions of 28 U.S. Code § 1441.

6. Plaintiff purportedly served a summons and complaint personally upon the defendant on or about 8/27/07, by substituted service on the Secretary of State of the State of New York pursuant to Vehicle and Traffic Law § 253 (and the Secretary of State). Purportedly, copies were thereafter forwarded by mail to the defendant-petitioner in New Jersey.

7. Petitioner present herewith a copy of the plaintiff's summons and complaint, annexed hereto as Exhibit "A", now pending in the Supreme Court, Bronx County.

8. Defendant served an answer to the plaintiff's complaint along with a demand for the dollar amount of damages claimed.

9. Plaintiff's response to defendant's demand for the dollar amount of damages claimed is dated December 20, 2007, copy annexed hereto as Exhibit "B". Plaintiff is claiming damages totaling \$1,000,000.

10. Plaintiff's complaint seeks money damages from the defendant based upon causes of action founded in negligence, and the claims are for personal injury, exclusive of costs and interest, which far exceed the \$75,000 controversy required for Federal jurisdiction.

11. Thirty days from the date of service on petitioner/defendant of the plaintiff's total dollar amount of damages claimed has not yet elapsed.

Dated: New York, New York
January 8, 2008

By: MAURIZIO SAVOIARDO (MS-6918)

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